

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|--|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Christopher Mills | Team: Team # 3 | CCRB Case #: 201310308 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 10/30/2013 9:30 PM | Location of Incident: § 87(2)(b) and the 24th Precinct Stationhouse. | Precinct: 24 | 18 Mo. SOL 4/30/2015 | EO SOL 4/30/2015 | |
| Date/Time CV Reported Fri, 11/01/2013 12:09 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 11/01/2013 12:09 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|----------------------|--------|--------|---------|
| 1. CPT James Dennedy | 00000 | 918640 | 024 PCT |
| 2. Officers | | | 024 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------------|-----------|--------|----------|
| 1. POM Patrick Richardson | 11392 | 942427 | 024 PCT |
| 2. SGT Christopher Masterson | 03767 | 924144 | 024 PCT |
| 3. POM Frank Laquidara | 12976 | 941474 | 024 PCT |
| 4. LT Robert Gallitelli | 00000 | 928343 | 024 PCT |
| 5. SGT Stephen Collich | 00657 | 888567 | 024 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------|---|-----------------------------|
| A. Officers | Abuse: Officers entered and searched § 87(2)(b) in Manhattan. | |
| B.CPT James Dennedy | Abuse: Captain James Dennedy authorized the strip searches of § 87(2)(b) and § 87(2)(b) | |

Case Summary

On November 1, 2013, § 87(2)(b) filed this complaint with the CCRB, via phone, on behalf of himself and § 87(2)(b).

On October 30, 2013, at approximately 9:30 p.m., officers from the 24th Precinct executed a search warrant at § 87(2)(b) in Manhattan. The following allegations resulted from this incident:

Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Manhattan

§ 87(2)(g)

Allegation B – Abuse of Authority: Captain James Dennedy authorized strip searches of

§ 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

The investigation was initially assigned to Investigator Lesley Henry, but was reassigned to the undersigned investigator on June 20, 2014, following Investigator Henry's resignation.

Mediation was not offered as an alternative to resolve this complaint since § 87(2)(b) was arrested and both civilians alleged they were strip searched.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old on the date of the incident, is a black man, 5'6" tall, 132 lbs., with black hair and brown eyes.*
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) provided a brief statement in his initial complaint on November 1, 2013. (Encl. 4a-4b) On November 14, 2013, § 87(2)(b) provided a sworn statement at the CCRB. (Encl. 6-7f) The following is a summary of his statements, § 87(2)(g)

On October 31, 2013, at approximately 9:30 p.m., § 87(2)(b) visited his next-door neighbor, § 87(2)(b) whom he had known for several months and visited occasionally. Though there was drug activity in the building, he did not believe § 87(2)(b) personally possessed any crack paraphernalia, and would not have visited § 87(2)(b) if he had thought § 87(2)(b) had any.

§ 87(2)(b) owned a studio apartment, and § 87(2)(b) was seated on the bed, while § 87(2)(b) was seated on a chair. They were watching television and talking. There was a broken BB-gun on a table. Suddenly, the door, which was approximately six feet away, was broken open and officers entered the apartment. § 87(2)(b) described the officers' entry as being like they were conducting a terrorist raid. He stated that they had machine guns.

§ 87(2)(b) also recognized one of the officers who entered the apartment, because he had seen the officer in the building earlier that day, speaking with building management. The investigation identified that officer as Sgt. Christopher Masterson of the 24th Precinct.

Immediately, officers told § 87(2)(b) and § 87(2)(b) to get on the floor, and they both immediately complied. As they were getting on to the floor, officers handcuffed them. They were then picked up, given full body frisks that included reaching into § 87(2)(b)'s jacket pocket, and taken into the hallway. § 87(2)(b) did not see the officers search the apartment.

§ 87(2)(b) asked if the officers had a warrant, and officers said that they did. He then began asking the officers why they had a warrant and what it was for. The officers did not answer. At some point, he spoke with the officer he had seen that morning, Sgt. Masterson, who stated that his name was "Chris," and he was in charge of the search warrant execution.

§ 87(2)(b) heard § 87(2)(b) ask to see the warrant three times, but § 87(2)(b) did not receive an answer, either. § 87(2)(b) began to curse at the officers because he was upset that they had come into the apartment with machine guns and arrested him and then would not tell him what was going on.

§ 87(2)(b) and § 87(2)(b) were placed in a police vehicle and driven to the stationhouse by a black man and a black woman. At the stationhouse, they went to the desk, where they were instructed to empty their pockets. They did not have any contraband in their pockets, and their possessions, were put in bags. Then they were placed in a holding cell.

Throughout that time, they kept asking who was in charge and what was going on, and officers said they would have to ask their arresting officer, whom § 87(2)(b) understood to be Sgt. Masterson.

Then a tall, approximately 5'9" to six foot tall, 170 to 180 pound, white man in plainclothes, with blond-brown hair and a "nasty disposition," identified via investigation as PO Frank Laquidara of the 24th Precinct, came to the cell and stated that he had to conduct a strip search. PO Laquidara was accompanied by a 5'8" to 5'9" tall, 160 to 175 pound, white man with a coffee-color complexion and black hair, identified via investigation as Sgt. Stephen Collich of the 24th Precinct, whom § 87(2)(b) believed to be a sergeant because of his gold shield.

§ 87(2)(b) was taken away first, and when he returned, accompanied by PO Laquidara and Sgt. Collich, § 87(2)(b) told § 87(2)(b) that he had been strip searched and that the officers had wanted to look inside his rectum, but that he had refused to comply. § 87(2)(b) was accompanied by PO Laquidara and Sgt. Collich, who handcuffed him by his wrists and ankles to a bench outside the cell and kept him there.

PO Laquidara and Sgt. Collich then took § 87(2)(b) out of the cell and instructed him to remove his clothing and hand his clothes to them. He was made to remove all of his clothing, including his underwear and socks. He was un-handcuffed for the strip search. He had been wearing the same suit that he wore to his CCRB interview.

One of the officers then instructed him to bend over, and § 87(2)(b) refused, saying that the officers were violating his constitutional and divine rights. The officers then returned him to his cell. He was later released without a summons and did not have to appear before a judge.

§ 87(2)(b) however, was not released, and was told that he was being charged with possession of a crack-pipe. § 87(2)(b) had not seen a pipe in the apartment, but understood from § 87(2)(b) and the officers' statements that a pipe had been found there. § 87(2)(b) stated that it was not a crack pipe but a vaporizer pipe for marijuana.

Attempts to Contact Civilians

§ 87(2)(b) was called a total of three times between March 7, 2014, and June 20, 2014 by Investigator Henry-Bedeau, and he called her back on March 7, 2014, when he provided a brief statement confirming that he was arrested after officers broke in the door and entered his apartment while he was watching television and located his marijuana vaporizer. (Encl. 8) He scheduled an appointment to appear at the CCRB on March 31, 2014 but failed to appear at his previously scheduled appointment and did not call to reschedule. A please call letter was sent on March 7, 2014, and a missed appointment letter was sent on March 31, 2014. On June 20, 2014,

§ 87(2)(b) rescheduled for June 25, 2014, but again failed to appear for his previously scheduled appointment and did not call to reschedule.

NYPD Statements:

Witness Officer: PO PATRICK RICHARDSON

- *PO Patrick Richardson, § 87(2)(b) old on the date of the incident, is a white man, 5'8" tall, two hundred and ten pounds, with blond hair and blue eyes.*
- *On November 1, 2013, PO Richardson worked in uniform with Sgt. Masterson assigned to execute a search warrant.*

Memo Book

PO Richardson's memo book entries indicate that at 6:15 p.m., he gave a signed warrant to Sgt. Masterson. At 8:27 p.m., PO Richardson was positioned in the rear of § 87(2)(b) observing a window with PO Johanna Stena. At 8:45 p.m., ESU officers hit the door to § 87(2)(b) and two males were arrested. At 8:55 p.m., PO Stena transported two males to stationhouse with PO Tyri Coerbell and PO Marc Kraljevic. At 10:15 p.m., PO Richardson requested to strip search § 87(2)(b) and the search returned negative results. (Encl. 9a-9e)

CCRB Statement

On March 12, 2014, PO Richardson was interviewed at the CCRB. (Encl. 10a-10b) The following is a summary of his statement.

On October 31, 2013, at approximately 8:45 p.m., PO Richardson was positioned in the rear of § 87(2)(b) watching a window to § 87(2)(b) ESU officers, with whom PO Richardson was not familiar, rammed the door and entered the apartment. PO Richardson did not observe what occurred during the entry and he did not see when § 87(2)(b) or § 87(2)(b) were arrested. After § 87(2)(b) and § 87(2)(b) were removed from the location PO Richardson and Sgt. Masterson entered and searched the apartment. A crack pipe with crack residue was located in plain view in a case on a desk, as well as 160 zip lock bags and an imitation pistol.

Sgt. Masterson authorized the strip search of § 87(2)(b) alone. A strip search was not authorized for § 87(2)(b) and PO Richardson did not conduct a strip search of § 87(2)(b). PO Richardson conducted the strip search of § 87(2)(b) in a bathroom away from other prisoners in Sgt. Masterson and PO Frank Laquidara's presence. The strip search produced negative results. § 87(2)(b) was released from the stationhouse with a desk appearance ticket and § 87(2)(b)'s arrest was voided.

Witness Officer: SGT. CHRISTOPHER MASTERSON

- *Sgt. Christopher Masterson, § 87(2)(b) old at the time of the incident, is a white man, 5'9" tall, two hundred and fifteen pounds, with brown hair and blue eyes.*
- *On October 30, 2013, Sgt. Masterson worked in plainclothes assigned as the field intelligence officer for the 24th Precinct from 8:30 a.m. until 5:05 p.m. with PO Richardson and he continued an overtime tour until 12:35 a.m. the next day in an unmarked vehicle.*

Memo Book

Sgt. Masterson's memo book entries indicate that at 8:45 p.m. he executed a search warrant at § 87(2)(b) with ESU. At 9 p.m. Sgt. Masterson entered and

searched the apartment and he returned to the 24th Precinct stationhouse at 10:35 p.m. (Encl. 11a-11b)

CCRB Statement

Sgt. Masterson was interviewed at the CCRB on April 23, 2014. (Encl. 16a-16b) The following is a summary of his statement.

On October 30, 2013, Sgt. Masterson waited at the end of the hallway of § 87(2)(b) as ESU officers conducted a “no-knock” entry into § 87(2)(b). Sgt. Masterson did not enter the apartment until ESU had secured the location and removed two individuals determined to be § 87(2)(b) and § 87(2)(b). Captain James Dennedy of the 24th Precinct was present, but he did not remain at the location.

Sgt. Masterson and PO Richardson were the only officers that entered and searched § 87(2)(b). The apartment is a single room occupancy with a shared hall bath and was approximately 8x8 feet wide. Sgt. Masterson observed as PO Richardson conducted the search of the small area. PO Richardson located a BB gun and drug paraphernalia, such as plastic baggies. Sgt. Masterson did not recall where the BB gun had been located; however, PO Richardson located the plastic baggies in a drawer. Sgt. Masterson did not recall whether a pipe with crack residue had been located or whether any items were in plain sight on a table. Sgt. Masterson called the 24th Precinct and informed the desk officer, whom he was unable to identify from the roll call, that drug paraphernalia had been located.

Sgt. Masterson and PO Richardson returned to the 24th Precinct. Though he had not interacted with them at the location of their arrests, Sgt. Masterson spoke with § 87(2)(b) and § 87(2)(b) to determine whether they had any information or criminal intelligence that he could use to make additional arrests. § 87(2)(e), § 87(2)(f)

§ 87(2)(b) Sgt. Masterson had then obtained a warrant § 87(2)(e), § 87(2)(f)

Sgt. Masterson did not authorize for a strip search of § 87(2)(b) or § 87(2)(b) to be conducted and he did not participate in a strip search. Sgt. Masterson denied he told § 87(2)(b) to remove his clothing and look into his rectum. Sgt. Masterson is not the only officer named “Chris,” but he could not identify anyone that he worked with that day with the same first name.

Sgt. Masterson reviewed a copy of the command log and was able to identify Captain Dennedy, whose name is illegible on the command log, as the officer that authorized a strip search for § 87(2)(b) and § 87(2)(b).

Subject Officer: CAPT. JAMES DENNEDY

- *On October 30, 2013, Capt. Dennedy worked in uniform from 7 p.m. until 8 a.m. the following day, with Sgt. Masterson, PO Laquidara and PO Richardson assigned as the executive officer.*
- *Capt. Dennedy is a white man. He was § 87(2)(b) years old at the time of the incident.*

Memo Book

Capt. Dennedy is not required to record memo book entries due to his rank.

CCRB Statement

Capt. Dennedy was interviewed at the CCRB on May 15, 2014. (Encl. 19a-19b) The following is a summary of his statement.

the strip searches were conducted because § 87(2)(b) and § 87(2)(b) were both arrested in the same room, where a firearm and narcotics had been located. Lt. Gallitelli did not indicate that there was any other reason for the strip search.

§ 87(2)(b) seemed angry and tense while he was at the desk, but he became more agitated when he was taken to a bathroom to be strip searched. Only PO Laquidara and Sgt. Collich were present for the strip search, and the bathroom was not visible to any other part of the stationhouse. Though PO Laquidara did not recall what he said specifically, he usually asks prisoners to remove their clothes, then asks them to squat. § 87(2)(b) was cursing, and removed each article of clothing slowly, cursing while he did so. PO Laquidara could not recall what § 87(2)(b) was saying. After all his clothes were off, § 87(2)(b) refused to squat, so PO Laquidara and Sgt. Collich agreed to cease the strip search at that point, and noted that the strip search had negative results. § 87(2)(b) was not handcuffed to a bench during the strip search.

§ 87(2)(b) seemed upset, and said that he did not understand why he was being forced to take his clothes off, but he was compliant. PO Laquidara was not sure which supervisor was responsible for noting that the strip search had occurred.

Witness Officer: LT. ROBERT GALLITELLI

- *Lt. Gallitelli is a 6 foot tall, 200 pound, white man with brown hair and brown eyes. He was § 87(2)(b) old at the time of the incident.*
- *On October 30, 2013, Lt. Gallitelli worked from 1 p.m. to 9:45 p.m. He was assigned as the Special Operations supervisor, was not in uniform, and did not have an assigned partner. He was not assigned to a motor vehicle and was at the stationhouse.*

Memo Book

Due to the nature of his assignment Lt. Gallitelli was not required to maintain memo book entries.

CCRB Statement

Lt. Gallitelli was interviewed on September 3, 2014. (Encl. 12a-12b) The following is a summary of his statement.

Lt. Gallitelli had no independent recollection of the incident, and all of his knowledge of the incident came from reviewing the Command Log after receiving his CCRB notification. He knew that his administrative duties had probably meant that he was at the stationhouse at the time of the incident, but he did not recall exactly where he was around that time. He speculated that he was probably in his office, which was to the left in a back room down a hall from the front desk. From reviewing the Command Log, Lt. Gallitelli knew that Capt. Dennedy had signed off on a strip search.

Witness Officer: SGT. STEPHEN COLLICH

- *Sgt. Collich is a 5'10" tall, 165 pound, white man with brown hair and brown eyes.*
- *Sgt. Collich worked from 2:50 p.m. to 11:47 p.m. on October 30, 2013. He was in uniform and was assigned to marked RMP number 5699 with his partner, PO Domingo Rosario.*

Memo Book

Sgt. Collich's memo book does not contain any entries related to this incident. (Encl. 13a-13c)

CCRB Statement

Sgt. Collich was interviewed at the CCRB on September 18, 2014. (Encl. 14a-14b) The following is a summary of his statement.

Sgt. Collich did not know where he was at the time of the incident and had no knowledge of the incident. He thought he may not have been at the stationhouse. He was shown § 87(2)(b) s and § 87(2)(b) arrest documentation and § 87(2)(b) s photograph, but he continued to have no recollection of the incident.

NYPD Documents

Roll Call

The 24th Precinct Roll Call indicates that Lt. Gallitelli, Sgt. Collich, Sgt. Stephen McKenna, and Lt. Matthew Bases were supervisors on duty at the time of the incident. Sgt. McKenna was assigned to the desk, while Sgt. Collich was assigned to RMP 5699. (Encl. 22a-22i)

Command Log

The Command Log indicates that PO Richardson entered the arrests of § 87(2)(b) and § 87(2)(b). They both appeared normal. PO Richardson wrote on the side that at 9:20 p.m. PO Laquidara strip searched § 87(2)(b) on the authority of Capt. Dennedy. At the same time, PO Laquidara also attempted to strip search § 87(2)(b) on the authority of Capt. Dennedy, but § 87(2)(b) refused. (Encl. 25a-25d)

Criminal Complaint Report

The Criminal Complaint Report for § 87(2)(b) indicates that pursuant to search warrant number § 87(2)(b), a large quantity of drug paraphernalia, including 1161 small plastic zip lock bags, one scale, and one vaporizer-pipe containing alleged crack residue, and a black, imitation Colt pistol were recovered from various locations about the apartment. § 87(2)(b) was in the middle of the room. Capt. Dennedy and Sgt. Masterson were both present at the location. (Encl. 20a-20b)

Arrest Report

§ 87(2)(b) arrest report indicates that § 87(2)(b) was present during the execution of search warrant number § 87(2)(b). An imitation air pistol, crack pipe with alleged residue, scale, and 1,161 narcotic paraphernalia bags were recovered within the location. The report also indicates that § 87(2)(b) was not strip searched. An alleged firearm, in the form of a black, Colt, single-shot pistol, was recovered from the location. (Encl. 21a-21c)

Search Warrant Confirmation

Search warrant § 87(2)(b) was issued by Judge § 87(2)(b) on § 87(2)(b). The results were positive. (Encl. 28b)

Property Vouchers

PO Richardson vouchered 1101 Ziploc bags, a cardboard box, a scale that had been inside the box, a case for the scale, bubble wrap, an air gun, an air gun cartridge as arrest evidence, and a vaporizer pipe and vaporizer, both with crack cocaine colored residue. (Encl. 24a-24f)

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- § 87(2)(b) was released without a summons.

Status of Civil Proceedings

- On September 22, 2014, a notice of claim inquiry for this incident was submitted to the New York City Office of the Comptroller and the response will be added to the case file when it is received at the CCRB. (Encl. 27)

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Civilians' CCRB Histories

- As of the date of this report, § 87(2)(b) has not filed any complaints with the CCRB. (Encl. 3c)
- § 87(2)(b) has filed the following CCRB complaints: § 87(2)(b)
[REDACTED]
[REDACTED]

Subject Officers' CCRB History

- Capt. Dennedy has been a member of the service for 17 years and there are no substantiated CCRB allegations against him. (Encl. 3a)

Conclusion

Identification of Subject Officers

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PO Richardson stated that Sgt. Masterson authorized the strip searches but PO Laquidara stated that Lt. Gallitelli authorized the strip searches, and Sgt. Masterson and Capt. Dennedy stated that Capt. Dennedy authorized the strip searches. However, the Command Log indicates that Capt. Dennedy authorized the strip searches, and Capt. Dennedy was the highest ranking officer involved, § 87(2)(g)
[REDACTED]
[REDACTED]

Allegations Not Pleaded

§ 87(2)(b) stated that Stg. Masterson identified himself as being in charge of the search warrant execution. Sgt. Masterson confirmed that he was in charge of the search warrant execution, but added that he was not among the officers who initially entered the room and removed the defendants. § 87(2)(b) stated that § 87(2)(b) requested to see a search warrant from the officers outside of the apartment but did not receive an answer. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Officers entered and searched § 87(2)(b) in Manhattan

It is undisputed that officers entered and searched the premises, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

New York State Criminal Law Procedure 690.50 states that officers may forcibly enter and search a location, without notice, pursuant to the instructions and temporal restrictions specific to a valid search warrant. (Encl. 1a-1b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: Captain James Dennedy authorized strip searches of

§ 87(2)(b) and § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) were strip searched at the stationhouse after they had been arrested when over a thousand plastic bags, a vaporizer pipe with alleged crack cocaine residue, a scale, and an imitation pistol were recovered from the apartment during the execution of a search warrant. The investigation identified Sgt. Collich and PO Laquidara as the officers who conducted the strip searches, but Sgt. Collich did not recall the incident and PO Laquidara did not many recall specific details about the strip searches. The investigation determined that Capt. Dennedy authorized the strip-searches based on the circumstances of the arrest, based on the Command Log entries and on his statement.

Patrol Guide Procedure 208-05 states that strip searches must be conducted with the knowledge or approval of the arresting officer's immediate supervisor and that a strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by previous search methods. (Encl. 1c-1e) A strip search may be conducted if it is founded on a reasonable suspicion that the arrestee is concealing evidence underneath his clothing, and one of the factors that may be considered in determining the reasonableness of such a search is the circumstances of the arrest. People v. Anderson 2013 N.Y. App. Div. (Encl. 2a-2c)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date